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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,477	04/25/2001	Frederick S.M. Herz	0635MH-40913	7916

7590 12/16/2004  
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EXAMINER

WINDER, PATRICE L

ART UNIT	PAPER NUMBER
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2145

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/842,477

Applicant(s)

HERZ ET AL.

Examiner

Patrice Winder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because the labels on the graph in Figure 4 are not decipherable. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities: the claim sentences contain two (2) periods. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Bommaiah et al., USPN 6,708,213 B1 (hereafter referred to as Bommaiah).

5. Regarding claim 1, Bommaiah taught a method for reducing bandwidth utilization in a system for distributing digital continuous media information from one or more servers (column 1, lines 58-65, column 2, lines 50-53), where users of the system are connected to a shared continuous media buffer and the buffer is shared amongst the users based on usage (column 5, lines 56-63), consisting of the steps of:

- i. the user requesting a continuous media stream from the server (column 5, line 43-46);
- ii. the server periodically sending encoded packets to the user representing portions of the media stream (column 6, lines 42-56);
- iii. a buffer shared by multiple users capturing the packet into one or buffers for redistribution to the user (column 6, lines 52-58); and
- iv. servicing later requests arriving within a bounded interval for the same buffer (column 6, lines 59-62).

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Gifford, USPN 6,052,718: taught replica routing that automatically directs client computers that request a service to a server replica that is expected to provide the best performance to the client based on the client's location in the internetwork topology and the estimated performance of the internetwork;
- b. Rabinovich, USPN 6,256,675 B1: taught a request distributor that determines the a distance metric for each host that contains a requested object, in one embodiment the request distributor forwards the request to host selected using the distance metric, the host then responds to the requestor directly or indirectly;
- c. Gou et al., USPN 6,377,972 B1: taught using helper machines (HS) inside a network as data forwarding, caching and buffering agents and forming meshes among HS to provide homogeneous, synchronous multicast transmission and of heterogeneous, asynchronous reception;
- d. Lewis et al., USPN 6,553,376 B1: taught a redirection function that intercepts requests sent to or from the media server and rewrites the requests such that they point to the local media file cache that is located at a point of presence;

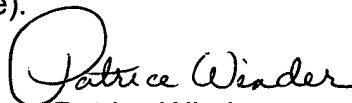
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- e. Asit Dan et al., EP 0694830 A1: taught a video server containing a buffer manager with balances the load on movie storage elements by buffering streams on storage elements;
  - f. Hiroshi Yao et al., EP 0762300 A2: taught a real-time server which stores stream data into a plurality of disk drives; in response to a client request for real-time stream data, real-time stream data is read-out from the disk drives to a buffer memory and then transferred to the client through a network;
  - g. Steven McCanne et al., Receiver-driven Layered Multicast: taught Receiver-driven Layered Multicast (RLM) where a content signal is layered, then each layer is transmitted on a separate multicast group; receivers subscribe to receive the multicast groups based on network performance; and
  - h. Markus Hofmann et al., Caching Techniques for Streaming Multimedia over the Internet: taught using dynamic caching to serve subsequent requests made for the same streaming object within a temporal distance.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrice Winder whose telephone number is 703-272-3935. The examiner can normally be reached on Monday-Friday, 10:30 am-7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on 703-272-3896. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in cursive script that reads "Patrice Winder".

Patrice Winder  
Primary Examiner  
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December 13, 2004